IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 32123 of 2007(Y)

PETITIONER:

AARTI ENGINEERING COMPANY,
REGD. OFFICE: TAHSIL POLICE STATION ROAD,
GANDHIBAGH, NAGPUR-440 002,
REPRESENTED BY ITS MANAGER (MARKETING),
JAIN KISHORE SAWALKAR.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:
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1. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, KOZHIKODE P.O.

2. **THE COMMERCIAL TAX OFFICER, WC & LT.,**
   KOZHIKODE P.O.

BY GOVT. PLEADER, SRI.K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 32123 OF 2007 Y
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Dated this the 31st October, 2007

J U D G M E N T

Exts.P16 and P17 are under challenge in this writ petition. By these orders, the appellate authority has granted stay on condition that the petitioner remits 50% of the balance tax and furnish security for the balance amount to the satisfaction of the assessing authority.

2. These orders were passed in in Exts.P11 to P14 stay petitions filed along with Exts. P6 to P9 appeals. which were filed against Exts. P1 to P4 assessment orders. The contention now raised by the petitioner is that they had executed works for the K.S.E.B and the Irrigation Department and that the tax due from the petitioner has been deducted at source and that the same has been remitted to the department. However, I notice that the petitioner did not even respond to the notice issued by the assessing authority or raised

these contentions. Therefore, these are contentions which are raised for the first time before the appellate authority. It is for the appellate authority to consider whether the payment of tax as stated will discharge the liability under the Act. This has not been done so far.

3. In view of this the appellate authority is justified in imposing the condition that has been done in Exts. P16 and P17. These orders do not warrant interference by this Court. Writ petition fails and is dismissed.

However, the time for payment specified in Exts. P16 and P17 will stand extended by three weeks from today.

ANTONY DOMINIC
JUDGE

jan/-